

## **TEACHERS' RETIREMENT BOARD MEETING**

### **February 10, 2006**

#### **CALL TO ORDER:**

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement Conference Room, 1500 East Sixth Avenue, Helena, Montana.

#### **BOARD MEMBERS PRESENT:**

Chairman, Scott Dubbs  
Mona Bilden  
Tim Ryan  
Kari Peiffer  
James Turcotte  
Darrell Layman

#### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Alison Peterson, Executive Secretary  
Johnelle Sedlock, Benefits Officer  
Karla Scharf, Retired Payroll Supervisor  
Ali Bovingdon, Legal Counsel  
Dan Gaughan, Accounting/Fiscal Manager  
Janet Cooper, Benefits Officer

#### **OTHERS PRESENT:**

Mark Bruno, Governor's Budget Officer  
Kathy Bramer, OPI  
Tom Bilodeau, MEA-MFT  
Carrol South, BOI  
Cliff Sheets, BOI  
Darrell Rud, SAM

### **CALL TO ORDER:**

Adopt Agenda - Chairman Scott Dubbs called for additions or changes to the Agenda for February 10, 2006. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda.

**MOTION/VOTE** Mrs. Mona Bilden moved that the agenda be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

Approval of November 18, 2005 minutes - Chairman Dubbs called for any changes to the November 18, 2006 Board meeting minutes. Mr. Layman asked that the spelling of his name be corrected. Mr. Dubbs called for a motion.

**MOTION/VOTE** Mrs. Peiffer moved that the November 18, 2005 minutes as corrected be adopted. Seconded by Mr. James Turcotte, the motion carried unanimously.

Approval of the December 13, 2005 minutes- Chairman Dubbs called for any changes to the December 13, 2005 minutes, seeing none he called for a motion.

**MOTION/VOTE** Mr. Darrell Layman motioned that the December 13, 2005 minutes be adopted. Seconded by Mrs. Bilden, the motion carried unanimously.

### **BOARD OF INVESTMENTS:**

Update from the Board of Investments: Mr. Carroll South, Executive Director of the Board of Investments spoke on the status of the Montana Pension Systems. He reported that the Board of Investments has hired an outside consultant to do an asset liability study on the TRS. The results of the study should be available to TRS in April.

Mr. Cliff Sheets, Chief Investment Officer of the Board of Investments was introduced. Mr. Sheets reported on TRS investments. It is expected the first half of 2006 will provide economic growth around 4%. The beginning of February Mr. Sheets moved around 1% of TRS cash assets into the bond pool to increase fixed income allocation to be more in line with the other retirement systems. Mr. Sheets plans to diversify the TRS portfolio to enhance returns and lower risk.

Other Issues Related to the Investment Program: Mr. Turcotte commented on the status of the TRS funding and what courses the retirement system should take. The Board has the responsibility to see that the fund is managed in a proper way so that members are provided benefits, and the taxpayers, a system that is sound and funded in a financially sound manner.

Life expectancy is increasing dramatically consequently, as ages increase and benefits are expanded, it will either take more money to pay the benefits or you will have to change the age at which members retire.

One of the biggest concerns is offering a defined contribution program and allowing people to manage their own assets. This is becoming an alternative choice to the defined benefit program in the private sector, and 95% of the population is not capable of making those choices. The defined contribution program is also an expensive alternative to having individuals manage their accounts than it is to manage an asset pool. The defined benefit program needs modifications to provide teachers with a retirement program that is financially sound, not a change from a defined benefit to defined contribution.

### **PUBLIC COMMENT:**

Mr. Darrell Rud of School Administrators of Montana (SAM) commented on the need for loopholes to be further defined and not just referred to as loopholes. This will help with the education of people being affected by the decisions being made now and in the future.

Mr. Tom Bilodeau of MEA/MFT commented that during a meeting with the MEA-MFT retirement benefits committee it was unanimously decided that they would oppose any replacement of the defined benefit program with a defined contribution plan.

### **INDIVIDUAL MEMBER PETITIONS:**

Maurice Luke-Dormant Account: Mr. Luke is an inactive non-vested member of the Teachers' Retirement System. He has not been an active member since 1978 at which time his account contained personnel contributions of \$1,465.83 plus interest. Pursuant to §19-20-503, MCA, active accounts are held in the Annuity Savings Fund (ASF) until the account has been dormant for 7 years when it may be transferred to the Pension Accumulation Fund (PAF), where it no longer accrues interest. Statute provides that the right of the member may not be jeopardized by the transfer and the amount transferred to PAF must be returned to the member's ASF account upon the member's request. Mr. Luke's account was transferred from ASF to PAF in August 2002.

Mr. Luke's account was transferred back to ASF but only with the interest that had accrued from September 1973 through August 2002. Mr. Luke is requesting that the interest from September 2002 through December 2005 also be reinstated.

**MOTION/VOTE:** Mr. Layman motioned that we approve Mr. Luke's request to reinstate his account with the interest from September 2002 through December 2005. Mr. Tim Ryan seconded the motion. The motion carried unanimously.

### **EXECUTIVE DIRECTOR'S REPORT:**

Actuarial Assumptions - Does Smoothing Really Work: Mr. Senn reviewed the process of smoothing and how it impacts the actuarial valuation. TRS is currently using a 5 year smoothing period. Smoothing was put into place to help level the contribution rates.

Mr. Senn reported that in the 2005 session the valuation had two numbers in it. The actuary said we needed a rate increase of 4.06% but adding the unrecognized gains and losses would

require adding another 0.50% and would require a rate increase of 4.56%. This difference between the actuarial value of assets and the market value of assets caused considerable confusion during the 2005 regular session.

Mr. Senn recommended at the May meeting the Board consider using the market value of assets in the 2006 valuation and resetting the smoothing method after the 2006 valuation. .

Mr. Ryan suggested that gains needed to be smoothed over longer periods and losses need to be smoothed over shorter periods.

Board's Funding and Benefit Policy: Mr. Senn presented suggested changes to the funding and benefits policy. The amortization period is the current benchmark for making changes and recommendations to the legislature for funding, Mr. Senn recommends that the funded ratio be added to that benchmark.

Mr. Senn reported that he uses the Board's funding policy as a guide when reviewing proposed legislation. Based on the suggested changes the unfunded liabilities of any legislative proposal would have to be funded over no more than 25 years and the funding ratio must be 80% or greater before the Board would support legislation to enhance benefits.

Mr. Senn recommended a committee be formed to oversee the changes on benefit enhancements and legislation. Mr. Turcotte, Mr. Ryan and Mr. Layman volunteered to be on the committee.

Executive Planning Process-Schedule for 2006 & Legislative Proposals: The Executive Planning Process (EPP) is the Executive process that begins each January prior to the next legislative session. The State Administration and Veterans' Affairs (SAVA) committee has several meetings planned to review retirement legislation. On May 12th the committee plans to review proposals from organizations representing public employees, legislators, and the public at large. In June the SAVA committee would like to hear from the retirement Boards on their legislative packages.

The EPP process also requires an IT Strategic Plan due in March, the plan will be presented to the Board in May. On April 14<sup>th</sup> the Board's legislative concepts are due to the Office of Budget and Program Planning (OBPP).

Mr. Senn updated the Board on the Housekeeping proposal. The major changes would be to comply with IRS regulation Section 415 of the Internal Revenue code. TRS is also looking at cleaning up the language regarding membership eligibility of paraprofessional. The statute on paying interest on dormant accounts needs to be further defined. Clarify employers' obligation to keep retirees informed of insurance rate changes and have them make those changes to the TRS Web system. Clarification of the division of benefits in a divorce.

The bill that the SAVA Committee approved includes changes to TRS, PERS, Game Wardens and Sheriffs' Retirement Systems. The sections in the bill for TRS would help restore actuarial funding to the system.

Mr. Senn reported that legislation was expected to be introduced to change the current plan to a Defined Contribution (DC) Plan for new members. Mr. Senn recommended a proposal for a study committee during the next interim for the legislature to partner with the Retirement Boards to look at all the options included in the Board's legislative package.

Executive Summary: Mr. Senn reported that master's degrees received by three Canyon Creek teachers from a diploma mill are being challenged by the School District. An independent arbitrator has been appointed to review the case. The master's degrees increased the salary of those teachers and one of the teachers is retired. If there is a correction in the teachers' salaries, employee and employer contributions will need to be refunded to the District and benefits recalculated for the teacher who's retired. The retiree will also have to return any benefits received in error. Mr. Senn has been in contact with the County Attorney on the status of this case.

The letter to Mr. Robert Frazier stated he had 30 days or until December 21, 2006 instead of December 21, 2005 to request a contested case hearing. Due to this error Mr. Frazier was advised that he will have until February 25, 2006 to request a hearing.

The Office of the Commissioner of Higher Education is interested in developing a report on the status of the "Optional Retirement Plan" (ORP) and to also compare their program to other programs. Mr. Senn has agreed to serve on the "Editorial Board" to assist in writing the report.

Mr. Senn reported on his trip to Washington DC to attend the National Committee on Teachers' Retirement legislative committee.

### **LEGAL COUNSEL REPORT:**

Legal Counsel, Ali Bovingdon, reported on the following cases.

Merle Farrier case: Ms. Bovingdon reported on the status of Mr. Farrier. On January 30, 2006 there was a hearing in front of Judge Sherlock on the motion to recover the benefits paid that he was not entitled to receive according to statute. Mr. Farrier, through his attorney, made the argument that this case is not proper before the court because it started out as a petition for judicial review, and this particular issue of him paying benefits back is outside of what was in the original administrative proceedings. TRS does not agree with this argument because the original Order of the TRS Board directed staff to collect any benefits paid in error in the event the Board prevailed in litigation. We are currently waiting for the court to decide if this is properly before them and if they can rule on the merits of the case. If the court decides it is not properly presented we have a complaint filed and ready to be served.

Roger Ogren Case: Ms. Bovingdon updated the Board on the embezzlement case involving Mr. Ogren. Mr. Ogren received over \$100,000.00 in benefits fraudulently from TRS. Mr. Ogren pled guilty to felony theft on February 10, 2006. Due to the circumstances of Mr. Ogren having no assets and having filed bankruptcy collecting restitution may be difficult. In this case Ms. Bovingdon believes that a jail term would be appropriate and has contacted County Attorney Leo Gallagher and spoke with him on this position. Ms. Bovingdon expects Mr. Gallagher to ask for Mr. Ogren to be sentenced to one month in jail, restitution, and community service.

2006 Meeting Dates –Due to scheduling conflicts and the need for Mark Olleman to speak on the mortality study Mr. Senn asked the Board to change the May 12th Board meeting.

**MOTION/VOTE:** Mr. Ryan motioned to move the Board meeting from May 12th to May 19th. Mrs. Peiffer seconded the motion, and the motion carried unanimously.

### **OUT-OF-STATE TRAVEL REQUESTS –**

National Association of Public Pension Attorneys- A travel request for the new TRS attorney to attend the National Association of Public Pension Attorney convention in New York was presented.

Mr. Ryan commented that with Ms. Bovingdon leaving TRS, sending a new attorney to the conference may not be reasonable.

**MOTION/VOTE:** Mr. Ryan motioned to decline the request. Mrs. Peiffer seconded the motion and it passed unanimously.

NCTR Deputy Director's Meeting- A travel request for Tammy Rau to attend the meeting in Savannah, GA. May 18-20 was presented to the Board.

Operating System Training: A travel request for Bill Hallinan to attend training in Denver CO. March 27-31.

**MOTION/VOTE:** Mr. Ryan motioned to approve both travel requests for Tammy Rau and Bill Hallinan. Seconded by Mr. Layman, the motion passed unanimously.

Personnel Committee Report – Tammy reported on the meeting with the Director of State Personnel Division on January 13th to discuss the Lump Sum Award and Leave Time Policies. After that meeting Mrs. Rau and Mr. Senn agreed that a new direction needed to be taken.

The Alternative Pay Plan Committee and the Board's Personnel Committee met on February 9th to discuss the spot cash reward information that was received from the Department of Administration in place of the two policies previously reviewed. The committee agreed TRS needs to set up predefined criteria for expectations to receive a lump sum award. Staff will be meeting and putting ideas together within the next few weeks. Tammy also recommended that TRS contract with CMS to complete a market evaluation. It has been four years since the last study was done.

Financial Statements, Delinquent Agency and Budget Reports: Dan Gaughan reported on the TRS financial statements and budget status. The biggest movements in the budget have been in IT and contracted services with Milliman. The \$100 million when transferred went into the STIP account increasing our cash balance. Out of the cash infusion 26 million has been transferred into the bond pool.

Retirement Report: Mr. Senn reported that in 1990 Mr. Michael Lies' service was overstated by 26 years, he was retired at the time so it did not affect his retirement calculation. However, post-retirement cost of living adjustments were overstated resulting in the member being overpaid \$6,018.00. It was agreed that TRS would contact the member, advise him of the error, and try to work with him to recover the overpayment. Any agreement would be subject to approval of the Board when they meet in May.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 12:50 pm.

Chair \_\_\_\_\_

Executive Director \_\_\_\_\_